

Addressing			
From		To	
Laurie Kermish/R9/USEPA/US		Ken Greenberg/R9/USEPA/US@EPA	
CC		BCC	
Description		Form Used: Memo	
Subject		Date/Time	
Fw: citizen suit SEP inquiry - private lateral line replacement		02/07/2013 06:10 PM	
# of Attachments	Total Bytes	NPM	Contributor
0	15,152		Kimberly Wells
Processing			
Comments			

Body

Document Body

Attorney-Client

----- Forwarded by Laurie Kermish/R9/USEPA/US on 02/07/2013 06:10 PM -----

From: "Harvey, Judy (ENRD)" <Judith.Harvey@usdoj.gov>
 To: Laurie Kermish/R9/USEPA/US@EPA, Ken Greenberg/R9/USEPA/US@EPA, Michelle Moustakas <Moustakas.Michelle@epamail.epa.gov>,
 Cc: "Dworkin, Karen (ENRD)" <Karen.Dworkin@usdoj.gov>, "Friedman, Henry (ENRD)" <Henry.Friedman@usdoj.gov>, "Smith, Justin (ENRD)" <Justin.Smith@usdoj.gov>
 Date: 02/07/2013 03:42 PM
 Subject: citizen suit SEP inquiry - private lateral line replacement

EES/EPA—

Attorney-Client

(I'm not available at the time

Jerry's email suggests, but could try and set up a different time tomorrow or next week).

Thanks,
Judy Harvey

U.S. Department of Justice
Environment and Natural Resources Division
Law and Policy Section
(202) 514-3932

From: Jerry Bernhaut [mailto:j2bernhaut@yahoo.com]

Sent: Thursday, February 07, 2013 5:04 PM

To: Harvey, Judy (ENRD)

Subject: Re: River Watch phone conference

Judy,

In our negotiations with San Jose regarding their sewage system overflows (SSOs) they are proposing a loan program to help fund the inspection and repair of private sewer laterals, which are the property owner's responsibility, as a SEP. It does have the required public benefit and nexus in that deteriorated private laterals allow the inflow of rain water and ground water into the sewage system, which is a significant contributing factor to SSOs.

However, as we understand it, a loan program where the funds are repaid does not have the deterrent effect of a penalty, which is a function that a SEP in lieu of penalties should satisfy. A grant for the same purpose should satisfy the EPA guidelines.

Are you available 9 a.m: pacific time tomorrow?

Thanks,

Jerry

----- Message from Ken Greenberg <Greenberg.Ken@epamail.epa.gov> on Mon, 17 Sep 2012 20:20:46 -0400 -----

To:Laurie Kermish <Kermish.Laurie@epamail.epa.gov>, Hugh Barroll <Barroll.Hugh@epamail.epa.gov>
cc:"Harvey, Judy (ENRD)" <Judith.Harvey@usdoj.gov>, Michelle Moustakas <Moustakas.Michelle@epa.gov>
Subject:Re: lateral replacement loan program as SEP?

Attorney-Client

▼ Laurie Kermish

----- Original Message -----

From: Laurie Kermish

Sent: 09/17/2012 04:58 PM PDT

To: Ken Greenberg; Hugh Barroll

Cc: "Harvey, Judy (ENRD)" <Judith.Harvey@usdoj.gov>

Subject: lateral replacement loan program as SEP?
Attorney-Client

----- Forwarded by Laurie Kermish/R9/USEPA/US on 09/17/2012 04:57 PM -----

From: "Harvey, Judy (ENRD)" <Judith.Harvey@usdoj.gov>

To: "Dworkin, Karen (ENRD)" <Karen.Dworkin@usdoj.gov>, "Friedman, Henry (ENRD)" <Henry.Friedman@usdoj.gov>, Laurie Kermish/R9/USEPA/US@EPA, Marguerite Meeks/DC/USEPA/US@EPA, Sherry Milan/DC/USEPA/US@EPA,

Cc: "Smith, Justin (ENRD)" <Justin.Smith@usdoj.gov>, "Lu, Sarah (ENRD)" <Sarah.Lu@usdoj.gov>

Date: 09/17/2012 01:56 PM

Subject: RE: REG 09 CWA CITIZEN SUIT SETTLEMENT AGREEMENT FOR REVIEW/COMMENTS. REF. NO. DJ 90-1-24-03389

EPA and EES –

Attorney-Client

Any thoughts would be appreciated.

Thanks,
Judy

From: Woolner, Rhodora (ENRD)

Sent: Thursday, September 13, 2012 3:51 PM

To: Harvey, Judy (ENRD); Lu, Sarah (ENRD); Dworkin, Karen (ENRD); Friedman, Henry (ENRD); Kermish, Laurie; Meeks, Marguerite; Milan, Sherry

Cc: Smith, Justin (ENRD); Woolner, Rhodora (ENRD)

Subject: REG 09 CWA CITIZEN SUIT SETTLEMENT AGREEMENT FOR REVIEW/COMMENTS.
REF. NO. DJ 90-1-24-03389

Reviewers:

Please review attached proposed consent decree. Provide comments to Judy Harvey <mailto:judith.harvey@usdoj.gov> and to Sarah Lu <mailto:sarah.lu@usdoj.gov> by COB 09/24/2012.

Thank you,

*Rhodora N. Woolner, SAS
U.S. Department of Justice*

ENRD LPS

Robert F. Kennedy Building

950 Pennsylvania Ave., N.W.

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Washington, DC 20530

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"A man's reach should exceed his gras"p. Robert Browning

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From: Lu, Sarah (ENRD)

Sent: Monday, September 10, 2012 2:03 PM

To: Woolner, Rhodora (ENRD)

Subject: FW: No. Calif. River Watch and West Valley Sanit. Dist. - Agreement for Review

FYI—please note today as date of receipt. Thanks!

From: Harvey, Judy (ENRD)

Sent: Monday, September 10, 2012 2:02 PM

To: Lu, Sarah (ENRD)

Subject: Fw: No. Calif. River Watch and West Valley Sanit. Dist. - Agreement for Review

Sent Using U.S. DOJ/ENRD BES 5 Server

From: Lisa Mador [<mailto:lhm28843@sbcglobal.net>]

Sent: Monday, September 10, 2012 01:54 PM

To: Harvey, Judy (ENRD)

Cc: Jerry Bernhaut <j2bernhaut@yahoo.com>; Jack Silver <warrioreco@yahoo.com>; Kenton L. Alm <kalm@meyersnave.com>; Sarah Olinger <solinger@meyersnave.com>

Subject: Re: No. Calif. River Watch and West Valley Sanit. Dist. - Agreement for Review

Good Morning Ms. Harvey,

Attached please find communication from Attorney Bernhaut providing a Settlement Agreement for review by the Dept. of Justice in this matter.

Lisa Mador

Lisa Hersom Mador
Legal Assistant
Law Office of Jack Silver

P.O. Box 5469
Santa Rosa, CA 95402-5469

Tel. 707-528-8175
Fax. 707-528-8675_

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[attachment "Ltr to DOJ Re West Valley Settlement - 09-10-12.pdf" deleted by Ken Greenberg/
R9/USEPA/US]